

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WILLIE D. BARFIELD,	)	
	)	
Plaintiff,	)	8:07CV408
	)	
v.	)	
	)	MEMORANDUM AND ORDER
NEW BIRTH HOME,	)	
	)	
Defendant.	)	
	)	

This matter is before the court on Plaintiff's notice of appeal and motion to proceed in forma pauperis. (Filing Nos. 8 & 9.) Plaintiff's notice of appeal states that he is appealing this court's October 30, 2007 order. Pursuant to Fed. R. Civ. P. 54(b), the court's October 30, 2007 decision was not a final and appealable order adjudicating all the claims and rights of the parties. The court will therefore construe the notice liberally as a motion for leave to certify the October 30, 2007 order as final for interlocutory appeal under 28 U.S.C. § 1292(b).

Section 1292(b) allows a court to certify an order not otherwise appealable for immediate appeal if it finds "that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation." 28 U.S.C. § 1292(b). The court's October 30, 2007 order does not meet this standard.

The October 30, 2007 order simply conducted initial review of the Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(e)(2). The order allowed Plaintiff 60 days to correct deficiencies in his original Complaint in order to avoid summary dismissal pursuant to 28 U.S.C. § 1915(e)(2). Therefore, the court declines to certify the order as final for immediate appeal.

IT IS THEREFORE ORDERED that:

1. The motion for leave to certify the October 30, 2007 order as final for interlocutory appeal (filing no. 8) is denied.

2. The motion for leave to proceed in forma pauperis on appeal (filing no. 9) is denied.

January 3, 2008.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge